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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,
10 Plaintiff,
11 v.
12 JAVIER MONTANO,
13 Defendant.

2:20-CR-199-JAD-NJK
Amended Preliminary Order of Forfeiture

14 This Court finds Javier Montano pled guilty to Count One of a One-Count Criminal
15 Information charging him with theft of government funds in violation of 18 U.S.C. § 641.
16 Criminal Information, ECF No. 4; Plea Agreement, ECF No. 6, Arraignment & Plea, ECF
17 No. 8.

18 This Court finds Javier Montano agreed to the forfeiture of the property and the
19 imposition of the in personam criminal forfeiture money judgment set forth in the Plea
20 Agreement and the Forfeiture Allegation of the Criminal Information. Criminal
21 Information, ECF No. 4; Plea Agreement, ECF No. 6; Arraignment & Plea, ECF No. 8.

22 This Court finds, pursuant to Fed. R. Crim. P. 32.2(b)(1) and (b)(2), the United
23 States of America has shown the requisite nexus between property set forth in the Plea
24 Agreement and the Forfeiture Allegation of the Criminal Information and the offense to
25 which Javier Montano pled guilty.

26 The following property and money judgment are any property, real or personal,
27 which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 641, a
28 specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7)(D), or a conspiracy to

1 commit such offense, and are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) with
2 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p): 2013 BMW 550, VIN WBAFR9C59DDX8054I
3 (property);

4 and an in personam criminal forfeiture money judgment of \$1,194,672.68, and that
5 the property will be applied toward the payment of the money judgment.

6 This Court finds that on the government's motion, the court may at any time enter
7 an order of forfeiture or amend an existing order of forfeiture to include subsequently
8 located property or substitute property pursuant to Fed. R. Crim. P. 32.2(e) and
9 32.2(b)(2)(C).

10 The in personam criminal forfeiture money judgment complies with *Honeycutt v.*
11 *United States*, 137 S. Ct. 1626 (2017).

12 This Court finds the United States of America is now entitled to, and should, reduce
13 the aforementioned property to the possession of the United States of America.

14 NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
15 DECREED that the United States of America should seize the aforementioned property.

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the United
17 States of America recover from Javier Montano an in personam criminal forfeiture money
18 judgment of \$1,194,672.68.

19 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED all possessory
20 rights, ownership rights, and all rights, titles, and interests of Javier Montano in the
21 aforementioned property are forfeited and are vested in the United States of America and
22 shall be safely held by the United States of America until further order of the Court.

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the United States
24 of America shall publish for at least thirty (30) consecutive days on the official internet
25 government forfeiture website, www.forfeiture.gov, notice of this Order, which shall
26 describe the forfeited property, state the time under the applicable statute when a petition
27 contesting the forfeiture must be filed, and state the name and contact information for the
28 government attorney to be served with the petition, pursuant to Fed. R. Crim. P. 32.2(b)(6)

1 and 21 U.S.C. § 853(n)(2). In the alternative, if the value of the property is less than \$1,000,
2 the government may instead serve every person reasonably identified as a potential claimant
3 in lieu of publication pursuant to Fed. R. Crim. P. 32.2(b)(6)(C) with Fed. R. Civ. P. Supp.
4 Rule G(4)(a)(i)(A).

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any individual
6 or entity who claims an interest in the aforementioned property must file a petition for a
7 hearing to adjudicate the validity of the petitioner's alleged interest in the property, which
8 petition shall be signed by the petitioner under penalty of perjury pursuant to 21 U.S.C. §
9 853(n)(3) and 28 U.S.C. § 1746, and shall set forth the nature and extent of the petitioner's
10 right, title, or interest in the forfeited property and any additional facts supporting the
11 petitioner's petition and the relief sought.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED a petition, if any,
13 must be filed with the Clerk of the Court, 333 Las Vegas Boulevard South, Las Vegas,
14 Nevada 89101, no later than thirty (30) days after the notice is sent or, if direct notice was
15 not sent, no later than sixty (60) days after the first day of the publication on the official
16 internet government forfeiture site, www.forfeiture.gov.

17 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED a copy of the
18 petition, if any, shall be served upon the Asset Forfeiture Attorney of the United States
19 Attorney's Office at the following address at the time of filing:

20 Daniel D. Hollingsworth
21 Assistant United States Attorney
22 James A. Blum
23 Assistant United States Attorney
24 501 Las Vegas Boulevard South, Suite 1100
25 Las Vegas, Nevada 89101.

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the notice
27 described herein need not be published in the event a Declaration of Forfeiture is issued by
28 the appropriate agency following publication of notice of seizure and intent to
administratively forfeit the above-described property.

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1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Clerk send
2 copies of this Order to all counsel of record and three certified copies to the United States
3 Attorney's Office, Attention Asset Forfeiture Unit.

4 DATED: January 4, 2021.

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7 JENNIFER A. DORSEY
8 UNITED STATES DISTRICT JUDGE
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